

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Grain)
Belt Express LLC for an Amendment to its)
Certificate of Convenience and Necessity)
Authorizing it to Construct, Own, Operate,) File No. EA-2023-0017
Control, Manage, and Maintain a High)
Voltage, Direct Current Transmission Line)
and Associated Converter Station)

ORDER AMENDING PROTECTIVE ORDER

Issue Date: April 19, 2023

Effective Date: April 19, 2023

On August 24, 2022, Grain Belt Express LLC filed an application seeking an order amending its certificate of convenience and necessity granted in File No. EA-2016-0358. On September 29, 2022, Grain Belt Express filed a motion asking the Commission to issue a protective order to establish procedures for controlling the flow of highly confidential information among the parties. On October 20, 2022, the Commission issued an *Order Establishing Protective Order* (Protective Order).

The Protective Order provided for a two-tiered confidentiality designation—a "Confidential" category for information encompassing the usual scope of protected information in Commission proceedings (including information covered under Commission Rule 20 CSR 4240- 2.135(2)); and a "Highly Confidential" category for classified proprietary financial information of Grain Belt Express and Invenergy and sensitive contractual information relating to Grain Belt Express and Invenergy.¹

¹ Protective Order, Ordered para. 1.a.

On March 23, 2023, Grain Belt Express filed a *Motion to Amend Protective Order*. In that motion, Grain Belt Express stated that based on the Commission's March 16, 2023, *Order Granting, in Part, and Denying, in Part, Request to Compel Discovery Answers*, Grain Belt Express is producing documents containing memoranda of understanding and negotiations between it and customers that intend to be served by the Grain Belt Express transmission line. Grain Belt Express stated that this information comprises sensitive negotiations from both Grain Belt Express's perspective and the perspectives of those customers. Grain Belt Express requested additional protection for information pertaining to parties who are or may in the future be in negotiation with Grain Belt Express for transmission capacity. In order to appropriately screen sensitive negotiations, Grain Belt Express proposed adding a third tier to its confidentiality protection: "Highly Confidential – Competitive". This "Highly Confidential – Competitive" category would be limited as set out in the ordered paragraphs below.

On March 29, 2023, the Staff of the Commission (Staff) filed a response to Grain Belt Express's motion. Staff stated that in general it did not oppose Grain Belt Express's motion, but that it would not agree to destroy all material and information designated as "Highly Confidential – Competitive" or any notes pertaining to such information as that information would be required to assist Staff in any ongoing enforcement obligations and to provide necessary assistance to the Commission in analyzing the details of the information. Staff asked that it be exempted from that requirement.

No other responses to Grain Belt Express's motion were received, and no replies to Staff's response were received.

The Commission has considered Grain Belt Express's motion and finds it reasonable with the exemption requested by Staff. The Commission will grant the motion with Staff's exemption as set out below. Because the addition of the "Highly Confidential – Competitive" category must be maintained outside the Commission's electronic filing and information system (EFIS) the Commission will direct its Data Center to make arrangements to accommodate the filing, maintenance, and service of any documents filed in the case using this designation. The Commission will also grant an extension of time to file any testimony designated as Highly Confidential – Competitive that was otherwise due on this date.

THE COMMISSION ORDERS THAT:

1. Grain Belt Express's *Motion to Amend Protective Order* is granted with an exemption as requested by Staff.
2. The Protective Order granted on October 20, 2022, is amended to add the "Highly Confidential – Competitive" designation as follows:
 - a. "Highly Confidential – Competitive" information is limited to classified proprietary financial information and sensitive negotiation information relating to Grain Belt Express and Invenergy that pertains to negotiations and memoranda of understanding between Grain Belt Express and Invenergy and a potential or current transmission customer.
 - b. For information designated as "Highly Confidential – Competitive," Grain Belt Express (or any intervening parties with such information) shall disclose such information only to state agency parties and their employees covered by statutory confidentiality requirements; to non-state agency party representatives for parties that are not potential or current transmission customers (for example, Sierra Club, Missouri Landowners Association, and Missouri Cattlemen's Association) and who have filed Highly Confidential Non-Disclosure Agreements; and to non-state agency party representatives for parties that are potential or current transmission customers (MEC, Ameren, and potentially other late-intervening parties), provided that the representative is an outside counsel or outside expert with a demonstrable need to see financial and

negotiation information and who have signed Highly Confidential – Competitive Non-Disclosure Agreement. In the case where Highly Confidential – Competitive information is between Grain Belt Express and an intervening potential or current customer, Grain Belt Express shall provide that information to the intervening potential or current customer separately.

- c. Outside counsel and outside experts for potential or current transmission customers may receive and review Highly Confidential – Competitive documents after executing the proposed Non-Disclosure Agreement for Highly Confidential – Competitive Information attached to this order or a similar Commission nondisclosure agreement that meets the requirements of Commission Rule 20 CSR 4240-2.135(7) and specifically references Highly Confidential – Competitive information. No Highly Confidential – Competitive information shall be provided directly or indirectly to any in-house representative of to any other representative of a potential or current transmission customers.
- d. Persons afforded access to materials or information designated “Highly Confidential – Competitive” shall neither use nor disclose such materials or information for purposes of business or competition or any other purpose other than with regard to the case referenced above and shall keep the materials and information secure and confidential and in accordance with the purposes and intent of the Protective Order.
- e. All material and information designated as “Highly Confidential – Competitive,” as well as any notes pertaining to such information, shall be returned to Grain Belt Express or destroyed upon the conclusion of the referenced case, with certification of same to Grain Belt Express. Staff is exempt from this requirement.
- f. If any party disagrees with the “Highly Confidential – Competitive” designation of any information, that party shall follow the informal discovery dispute resolution procedures set forth in Commission Rule 20 CSR 4240-2.090(8). If these dispute resolution procedures are exhausted without resolution, the party may file a motion challenging the designation.
- g. Staff is specifically authorized to address and analyze the details of any Highly Confidential – Competitive testimony as is necessary to perform its functions as the Staff of the Commission.

3. The Commission’s Data Center shall establish a process for the receipt, storage, and service of documents from this case designated as “Highly Confidential – Competitive”.

4. Parties may file any testimony or pleadings designated “Highly Confidential – Competitive” by special arrangement with the Commission’s Data Center by calling 573-751-7496 or sending email to datacenter-psc@psc.mo.gov.

5. Filings in this case due on April 19, 2023, shall be filed in EFIS without the “Highly Confidential – Competitive” version attached. The “Highly Confidential – Competitive” version of any filings due April 19, 2023, shall be filed with the Data Center no later than April 20, 2023.

6. This order shall be effective when issued.

BY THE COMMISSION



A handwritten signature in black ink that reads "Nancy Dippell". The signature is written in a cursive, flowing style.

Nancy Dippell
Secretary

Nancy Dippell, Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 19th day of April, 2023.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Grain Belt)
Express LLC for an Amendment to its Certificate)
of Convenience and Necessity Authorizing it to)
Construct, Own, Operate, Control, Manage, and) File No. EA-2023-0017
Maintain a High Voltage, Direct Current)
Transmission Line and Associated Converter)
Station)

**NON-DISCLOSURE AGREEMENT FOR
HIGHLY CONFIDENTIAL – COMPETITIVE**

I, _____, have reviewed the Commission’s Rule at 20 CRS 4240-2.135, the Commission’s Protective Order, and the Commission’s Amended Protective Order on the ____ day of _____, 20____.

I have requested review of Highly Confidential – Competitive information produced in Case No. EA-2023-0017 on behalf of _____.

I hereby certify that:

(a) Only certain persons may receive Highly Confidential – Competitive information. These persons include state agency parties and their employees covered by statutory confidentiality requirements; non-state agency party representatives for parties that are not potential or current transmission customers and who have filed Highly Confidential Non-Disclosure Agreements; and non-state agency party representatives for parties that are potential or current transmission customers, provided that representative is an outside counsel or outside expert with a demonstrable need to see financial and contract information and who have filed Highly Confidential – Competitive Non-Disclosure Agreements.

(b) I am an employee of _____ acting as an (outside/inhouse) _____ expert/attorney on behalf of _____

_____, and have been directed to provide expert/legal consultation or testimony in this docket.

(c) I have read and agree to abide by the Commission's Rule at 20 CRS 4240-2.135 and all terms of the Protective Order and Amended Protective Order issued by the Commission in this docket.

Dated: _____

Signature and Title

Employer

Party

Address

Telephone

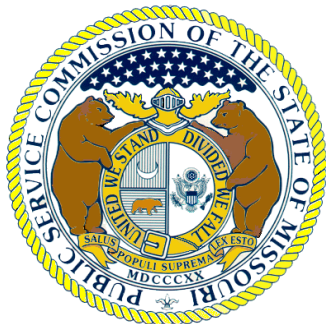
E-mail Address

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 19th day of April, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 19, 2023

File/Case No. EA-2023-0017

Missouri Public Service Commission

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.